

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Tony A. Fair, Jr., #Y298270,)	
)	C/A No.: 9:05-1025-MBS
Plaintiff,)	
)	
vs.)	
)	ORDER
Lt. Rowe, Lt. McCray, Sgt. Grant,)	
Ofc. Kolb, Ofc. Shadeed, Ofc. Belin,)	
and Capt. Ramano,)	
)	
Defendants.)	
)	

Plaintiff Tony A. Fair, Jr. is an inmate in custody of the South Carolina Department of Corrections. Plaintiff, appearing pro se, filed a complaint pursuant to 42 U.S.C. § 1983 on April 4, 2006, asserting that Defendants violated his constitutional rights.

This matter is before the court on Defendants' motion for summary judgment filed December 12, 2005. On December 13, 2005, by order issued pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), Plaintiff was advised of the applicable procedures and the possible consequences if he failed to respond adequately. Plaintiff filed a response on January 12, 2006.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge George C. Kosko for pretrial handling. On April 17, 2006, the Magistrate Judge filed a Report and Recommendation in which he recommended that Defendants' motion for summary judgment be granted and that the case be deemed a "strike" pursuant to 28 U.S.C. § 1915(g). Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo

determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has thoroughly reviewed the record. The court concurs in the recommendation of the Magistrate Judge. Defendants' motion for summary judgment is **granted**. The within action shall be deemed a "strike" pursuant to 28 U.S.C. § 1915(g).

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

May 17, 2006

Columbia, South Carolina

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.